

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

MAXONYMOUS,

Plaintiff

-against-

The UNITED STATES OF AMERICA

Defendant

Case No. 4:23-CV-0018A/QWT

Before Qwerty, Chief Judge

OPINION AND ORDER DISMISSING ACTION SUA SPONTE

The plaintiff appeared *pro se*.

Jonofdoom, United States Attorney General, Samschulpen2, Acting Assistant Attorney-General, Knick Caldwell, Assistant Solicitor General, Department of Justice, Washington, DC, appeared for the defendant.

Before QWERTY, Chief Judge, U.S. District Court for the District of Columbia:

The facts of this case do not exceed us in their complexity, nor, now, are novel questions of law presented. Suffice it to say, the plaintiff brought this action to challenge the enforcement of his bar from holding office under the 14th Amendment. We granted a motion for a preliminary injunction on very narrow, specific, grounds on the 13th October 2023. Unfortunately, the important questions of first impression we invited the parties to address on the merits need no longer be adjudicated, as we now dismiss the proceedings as moot, since the plaintiff has been definitively blacklisted from the United States.

We take advantage of this order to briefly recall several core precepts of our mootness jurisprudence: firstly it is a jurisdictional matter which we are not only entitled but required, acting diligently, to raise *sua sponte*. See *Brown v. Buhman*, 822 F.3d 1151, 1165 (10th Cir. 2016) (“If a case is moot, we have no subject-matter jurisdiction.”) (quoting *Schell v. OXY USA, Inc.*, 814 F.3d 1107, 1114 (10th Cir.2016)) accord *Fund for Animals v. U.S. Bureau of Land Manag*, 460 F.3d 13, 24 (D.C. Cir. 2006) (“even where ‘no party asserts that the case is . . . moot, we are obliged to address the issue sua sponte because mootness goes to the jurisdiction of this court.’”) (quoting *Mine Reclamation Corp. v. FERC*, 30 F.3d 1519, 1522 (D.C. Cir. 1994)). Secondly, as the 10th Circuit held in *Buhman*, the basic underlying test of mootness “is whether granting a present determination of the issues offered will have some effect in the real world.” *Brown* 822 F.3d at 1165-66 (quoting *Wyoming v. U.S. Dep't of Agric.*, 414 F.3d 1207, 1212 (10th Cir. 2005)). To most principles of law there are to be found at least some exceptions- for mootness, these are most notably what is called “capable of repetition, yet evading review”, and “voluntary cessation”. This latter concept is intellectually unchallenging – if the defendant voluntarily ceases the action giving rise to the proceeding, this does not *ipso facto* moot the action.

Unsurprisingly, “[t]he voluntary-cessation doctrine has no apparent relevance where the source of cessation lies beyond the unilateral legal authority of any of the named defendants” *J.T. v. Dist. of Columbia*, 983 F.3d 516, 523 (D.C. Cir. 2020) (quoting in part *Guedes v. ATF*, 920 F.3d 1, 15 (D.C. Cir. 2019) (per curiam)) (internal quotation marks omitted), since the cessation is no longer voluntary – this aptly describes the plaintiff’s group blacklisting. This matter is not “capable of repetition yet evading review” either. This exception “applies when:

‘(1) the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there is a reasonable expectation that the same complaining party will be subject to the same action again’ *Reid v. Hurwitz*, 920 F.3d 828, 832-33 (D.C. Cir. 2019) (quoting *District of Columbia v. Doe*, 611 F.3d 888, 894 (D.C. Cir. 2010)). This bar appears, meanwhile, to be neither. Nothing before the court suggests as if the plaintiff will be unblacklisted, and therefore subjected anew to the action which he challenges, nor is such action of a transigent nature liable to have ceased during the course of litigation.

Since the plaintiff is blacklisted however, we perceive no reason to believe that the action is not moot. We note briefly in passing that this must be regarded differently to a partial retirement or withdrawal from public life, see *Benda v. United States* 5 U.S. 75 (nUSA 2018). It is clear that there are no longer any “real-world” consequences to the plaintiff’s bar, and that any further examination would be a largely academic, even if particularly interesting, exercise.

For the foregoing reasons, the action is **dismissed** and the preliminary injunction **dissolved**.

It is so ORDERED,

27th November 2023

/s/Newplayerqwerty

CUSDJ